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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/673,230	06/16/2003	Paul D. Lusk	960067.ORI	3805

7590 05/26/2006

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EXAMINER

MITCHELL, KATHERINE W

ART UNIT PAPER NUMBER

3677

DATE MAILED: 05/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/673,230	Applicant(s) LUSK ET AL.	
	Examiner Katherine W. Mitchell	Art Unit 3677	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____
Claim(s) objected to: _____
Claim(s) rejected: 22-27 and 36-41.
Claim(s) withdrawn from consideration: 28-33; 42.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s).
13. ☒ Other: See Continuation Sheet.


Katherine W. Mitchell
Primary Examiner
Art Unit: 3677

Continuation of 3. NOTE: Claim 36 was explicitly amended to overcome the art rejection, and would require further consideration and search to determine if it is now allowable. .

Continuation of 5. Applicant's reply has overcome the following rejection(s): if entered, the 112 rejections and claim objections have been overcome. Examiner agrees that Plungian does not teach diisobutyl adipate regarding claim 36..

Continuation of 11. does NOT place the application in condition for allowance because: it argues new limitations not entered (ie, lack of specific compound in alternatives) and as noted below, the typing error has been explained, but the limitation was taught in the applied references. .

Continuation of 13. Other: Applicant is correct that the comment on where greater than or equal to 13.15 %N is found - examiner apologizes for the cut and paste error. It is Plungian coil 4, lines 7-19 that states: "Any of the known nitrocellulose grades can be employed in the practice of this invention. These range from the so-called plastic grade nitrocellulose having about 10.9% nitrogen up to the smokeless powder grade having about 13.5% nitrogen. For most applications, nitrocellulose containing about 12% nitrogen, so-called lacquer grade nitrocellulose is quite satisfactory. Ultimately, however, selection of the nitrocellulose type to be employed depends upon the specific properties sought. For example, lacquer grade would be preferred for wood filler; smokeless grade would be preferred for a combustible cartridge case." thus teaching that nitrocellulose of about 13.5 %N is known for use in combustible cartridge cases (explosives). .